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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,006	05/04/2001	George Nelson Bliss	17306/101	1810
26646	7590	10/03/2003	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			CHIN, PAUL T	
		ART UNIT		PAPER NUMBER
				3652

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/849,006	BLISS ET AL.
	Examiner	Art Unit
	PAUL T. CHIN	3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 June 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) 11 and 23 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-10, 12-22 and 24 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 04 May 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) Interview Summary (PTO-413) Paper No(s) _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

Election/Restrictions

1. The amendment filed June 29, 2003, and the arguments presented therewith have been carefully considered and they are persuasive in view of the amendment. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Faughnan (4,303,269) and Davidson (3,156,496).

Election/Restrictions

2. This application contains claims 11 and 23 are drawn to an invention nonelected with traverse in Paper No. 7. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis for “*the linkage system*” (claim 9, lines 1-2) (note that claim 9 depends on the amended claim 7).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1,4,7,8,12,13,18-20, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by **Faughnan (4,303,269)** (see IDS, Paper No. 4).

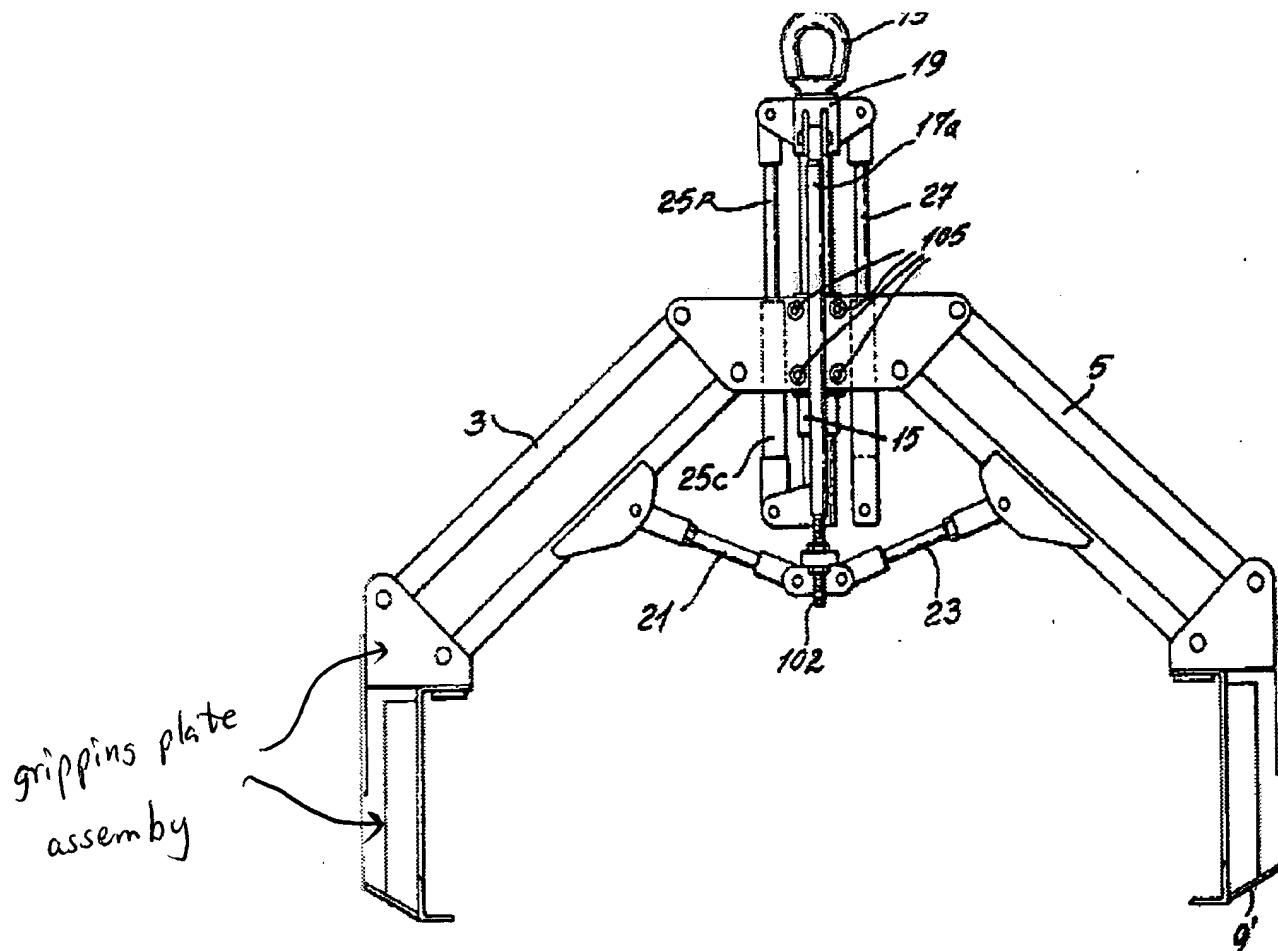
Re claims 1 and 13, Faughnan (4,303,269) discloses an apparatus for gripping and releasing at least one item, comprising a pickup head (31,33) (see Figs. 1-3); at least one gripping plate assembly (see **Exhibit A**, see next page); a restraining device having at least a first link (3a or 5a) and a second link (3b or 5b) wherein the first link and the second link connected to the pickup head and the gripping plate assembly; the restraining device configured so that the gripping plate assembly is movable between an open position and a closed position in an at least one degree of freedom; and an actuation device (25,27) to move the gripping plate assembly between the open position and the closed position. It is pointed out that an end of gripping plate being displaced inwardly by the restraining device when the gripping plate moved from the open position to the closed position (see Fig. 1, an open position, and Fig. 2, a closed position).

Re claims 4 and 18, Faughnan's apparatus (4,303,269) clearly shows that the degree of freedom includes a component in a direction towards and a way from the gripped items (39).

Re claims 7,8,19, and 20, Faughnan's apparatus (4,303,269) shows the first link (3a or 5a) having a first end rotatably connected to the pickup head and a second end rotatably connected to the gripping plate assembly (see Figs. 1-3).

Re claims 12 and 24, Faughnan's apparatus (4,303,269) shows that at least one end of the gripping plate (7,9) is substantially curved (see Figs. 1-3).

EXHIBIT A

*Fig. 6****Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2,3,16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Faughnan (4,303,269)** in view of **Davidson (3,156,496)**.

Faughnan's apparatus (4,303,269), as presented in section 6 above, shows that the actuation device (25,27) includes at least hydraulic cylinder. The prior art does not show that the actuation device (25,27) includes *at least air cylinder*.

However, Davidson (3,156,496) shows *an air cylinder* (see Fig. 3) (Col 3, lines 5-19) to operate the opening and closing of the tongs. Accordingly, it would have been an obvious to one of the ordinary skill in the art to provide *an air cylinder* (instead of hydraulic cylinder) on the Faughnan's apparatus (4,303,269) as taught by Davidson (3,156,496) in order to employ as an alternative actuating device to open and close the gripping plate assemblies.

Double Patenting

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. **Claims 1-3,5-10,12-17,19-22, and 24** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over **claims 1-3,7-10,12,16-20, and 24-27, of U.S. Patent No. 6,056,341**. Although the conflicting claims are not identical, they are not

patentably distinct from each other because both of the application and the above patent recite an apparatus for gripping and releasing at least one item comprising a pickup head; a plurality of gripping plates or fingers; a restraining device corresponding to each gripping plate wherein the gripping plate is movable between an open position and a closed position; an actuation device including one pneumatic or air cylinder; the restraining device including a linkage system having a first link having a first end rotatably connected to the pickup head and a second end rotatably connected to the gripping plate; and a second link having a first end connected to the pickup head and a second end connected to the gripping plate through a pin; the second end of the second link having a slot wherein the gripping plate being slidably arranged to the slot; and one end of the gripping plate is curved.

Response to Arguments

11. Applicant's arguments with respect to claims 1-4, 7, 8, 12, 13, 16-20, and 24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kawamura (3,796,332) shows a gripping apparatus having a plurality of links, a pickup head, and a plurality of claws.

13. Applicant's amendment (the addition of new (broader) limitations ("the combinations of the first link and the second link connected to the pickup head and the gripping plate") in claims 1 and 13), necessitated the new ground(s) of rejection presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3652

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (703) 305-1524. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (703) 308-3248. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1113.

ptc

PTC

September 22, 2003


EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600